

## Testimony of Ken Toole in opposition to HB 25

Members of the committee, I apologize for not being able to offer testimony in person. I have asked to have a brief statement read because I am the only Public Service Commissioner opposed to this bill because of its provision allowing pre-approval.

I do not believe, nor do most consumer advocates in Montana, NorthWestern Energy needs to have "pre-approval" in order to build new generation facilities. Currently plants are being built in states with out pre-approval. More over, it now appears that in Montana at least one plant in Great Falls, the former 1st Megawatts proposal, will be built without pre-approval. Finally, it is important to note that utilities have always argued that they need pre-approval to build plants. There is nothing new in the arguments we now hear.

The following are some of my concerns about the bills currently in the legislature to allow Northwestern Energy to own power generating plants. Clearly, it would be beneficial to "re-regulate" Northwest Energy but it should be done in a way that protects the public interest.

**Pre-approval shifts risk from investors to consumers-** Pre-approval asks the Public Service Commission to allow the utility to recover costs regardless of whether the plant is actually needed when it is put into service. There is also risk that the market price drops and the pre-approved plant price is much higher. This happened all over the country in the mid-1980s. With pre-approval rate payers will be on the hook regardless of the market price and regardless of whether the plant is needed.

**Pre-approval is opposed by consumer advocates-** The Montana Consumer Council and other consumer advocates in Montana have always opposed pre-approval because it shifts market risk to consumers. Call the Montana Consumer Counsel, Bob Nelson at 444-2771.

**Pre-approval is not common in other states' regulatory regimes-** While there are some states with differing forms of pre-approval, it is not the norm. Based on a few phone calls to western states I can tell you that Wyoming does not allow pre-approval, Arizona does not allow pre-approval, Oregon does not allow pre-approval and Nevada does not allow pre-approval.

**Granting pre-approval is an over-reaction to temporary market conditions-** Pre-approval advocates argue that nothing will get built without pre-approval. The deregulated merchant power market has collapsed. There is currently a lot of uncertainty in power markets. This condition is temporary (as we have seen before). Markets will likely get more stable and financing for new plants will be more available in private markets.

**Granting pre-approval will lead to poor decision making-** Risk leads to conservative decision making. Shifting risk away from investors to rate payers makes the utility less vested in good decision making.

Just like Chicken Little, utilities have always predicted dire consequences if they were not granted pre-approval. Following the bond defaults and overbuilding of the early 80's utilities made the exact same arguments we hear today. The sky did not fall then and it won't now.